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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/623,904

07/21/2003

Kenneth E. Welker

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07/06/2006

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EXAMINER

HUGHES, SCOTT A

ART UNIT

PAPER NUMBER

3663

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/623,904

Applicant(s)

WELKER ET AL.

Examiner

Scott A. Hughes

Art Unit

3663

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that there is no suggestion or motivation in Bary or Stephen to couple the kind of sensors used by Bary to an ocean-bottom cable. Applicant argues that neither Bary nor Stephen teaches that the sensor units should be coupled to an ocean-bottom cable in order to be able to lay the sensor units described in Bary on the sea floor in a desired array from a survey vessel. Applicant argues that Stephen teaches a separate kind of sensor unit. These arguments are not persuasive because the both the Bary reference and the Stephen reference are concerned with using geophone sensors to obtain seismic data from ocean bottom units. Both Bary and Stephen teach the use of geophones to collect seismic data and also the use of an orientation sensor to determine the orientation of the units. Stephen teaches that it is known that to position sensor units at a known location on the seabed, the units are used in ocean bottom cables that are lowered from a survey vessel to the ocean bottom ((Page 3, Line 60 to Page 4, Line 10). Therefore, there is a motivation to use the sensor devices (accelerometers, inclinometers, compass) disclosed in Bary in a seismic cable as taught by Stephen in order to be able to lay down sensors on the seafloor in a desired array from a survey vessel. Stephen shows how geophones and other equipment used by Bary can be placed into the cable instead of in the individual sensor nodes. The sensor unit of Stephen is not a separate kind of sensor unit because it also uses geophones and orientation devices to sense seismic data from the seafloor. Applicant argues that Bary teaches away from using an ocean bottom cable because Bary states that ocean-bottom cables are conventionally used but does not disclose modifying his sensor units to be in a cable. This is not persuasive because the geophone sensors of Bary are also found in Stephen. The fact that the sensor units of Bary are placed in individual nodes does not teach away from placing the same sensors in a cable if the cable is a known alternative. Applicant argues that the Bary and Stephen references inherently describe determining if the sensors have moved. The rejection made was not that this was an inherent feature of Bary, but rather that it would have been obvious to use the equipment (inclinometer, compass) in Bary which determines orientation to determine whether or not the cable has moved. Since the orientations are measured, it was stated that it would have been obvious to use the devices of Bary to determine whether or not the cable has moved to determine if the cable had settled into a resting position to take the survey. It was not stated that this was an inherent feature of either reference, but rather that it was an obvious step in view of the disclosures of Bary and Stephen..



IAN J. LOBO
PRIMARY EXAMINER